

Third District Court of Appeal

State of Florida

Opinion filed October 27, 2017.
Not final until disposition of timely filed motion for rehearing.

No. 3D17-2312
Lower Tribunal No. 16-2434

Ishsha Shalem,
Petitioner,

vs.

Daniel Junior, etc., et al.,
Respondents.

A Case of Original Jurisdiction – Habeas Corpus.

Carlos J. Martinez, Public Defender, and Natasha Baker-Bradley, Assistant Public Defender, for petitioner.

Pamela Jo Bondi, Attorney General, and Christina L. Dominguez, Assistant Attorney General, for respondent State of Florida.

Before SUAREZ, LOGUE, and LINDSEY, JJ.

SUAREZ, J.

Petitioner Ishsha Shalem petitions this Court for a writ of habeas corpus claiming her pretrial detention without bond is unlawful. We grant the petition for writ of habeas corpus and remand this cause to the trial court.

A review of the record shows that the Petitioner was ordered detained without any condition for pretrial release pending trial. She was originally arrested on February 5, 2016 and a bond was set. The information charged the Petitioner with one count of child neglect with no harm. Petitioner was to appear for arraignment on March 16, 2016 and failed to appear. She was arrested on capias warrant on October 18, 2017 and her case was heard twice, on October 18 and 19, 2017. Bond was requested but denied. The record and transcripts from the hearings show that the requirements of section 907.041, Florida Statutes (2017) and Florida Rules of Criminal Procedure 3.131 and 3.132 were not followed, and the trial court failed to make the proper findings before ordering pretrial detention.

Therefore, we grant the petition for habeas corpus and remand this cause to the trial court. The State shall have until 5:00 p.m. Friday October 27, 2017, to file a legally sufficient motion for pretrial detention if it chooses to do so. The trial court shall, no later than Monday, October 30, 2017, conduct a hearing pursuant to Florida Rules of Criminal Procedure 3.131 and 3.132, to determine appropriate conditions of release or detention, and any pretrial detention order shall comport with the requirements of section 907.041, Florida Statutes (2017). The defendant shall remain in custody pending the determination of pretrial release or detention.

This opinion shall take effect immediately notwithstanding the filing or disposition of any motion for rehearing.